

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

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FIT TECH, INC., PLANET FITNESS  
CENTER, INC., PLANET FITNESS  
CENTER OF MAINE, INC., PLANET  
FITNESS CENTER OF DARTMOUTH,  
INC., PLANET FITNESS CENTER OF  
SALEM, INC., PLANET FITNESS  
CENTER OF BRIGHTON, INC.,  
STRATFORD FITNESS CENTER, INC.,  
DAVID B. LAIRD and SCOTT G.  
BAKER,

Plaintiffs,

vs.

BALLY TOTAL FITNESS HOLDING  
CORPORATION, HOLIDAY  
UNIVERSAL, INC., and PAUL TOBACK.  
Defendants.

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Civil Action No.  
05-10471-MEL

**JOINT MOTION TO EXTEND SCHEDULING DEADLINES FOR FILING OF  
MOTIONS TO DISMISS**

The parties, Defendants Bally Total Fitness Holding Corporation, Holiday Universal, Inc., and Paul Toback, (collectively, "Defendants"), and the plaintiffs<sup>1</sup> hereby jointly request that the Court extend the current scheduling order relative to briefing motions to dismiss and oppositions by sixty (60) days. The parties seek this extension because settlement discussions are in progress and the parties believe that all litigation between them will be resolved shortly. No prejudice will result from this extension.

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<sup>1</sup> Plaintiffs include Fit Tech, Inc., Planet Fitness Center, Inc., Planet Fitness Center of Maine, Inc., Planet Fitness Center of Dartmouth, Inc., Planet Fitness Center of Salem, Inc., Planet Fitness Center of Brighton, Inc., Stratford Fitness Center, Inc., David B. Laird and Scott G. Baker.

The requested extension would modify the Court's Joint Scheduling Orders of March 10, 2006, May 18, 2006, July 5, 2006, and August 15, 2006.

Under the proposed new schedule:

- Defendants' Motions to Dismiss will be due on December 15, 2006;
- Plaintiffs' Oppositions to the Motions to Dismiss will be due on February 13, 2007;
- Defendants' Replies to Oppositions will be due on March 15, 2007.

Finally, in the event that the parties are not able to finalize the settlement, the parties request that, following motion practice and the Court's ruling on all motions to dismiss, to the extent that there remain any claims in the First Amended Complaint or any subsequent amendment, the Court hold a scheduling conference to consider the various parties' positions on consolidation of some or all of the remaining claims with the 2003 civil action filed by Plaintiffs, and to set a discovery schedule for all remaining claims.

Respectfully submitted,

Defendants,  
BALLY TOTAL FITNESS  
HOLDING CORPORATION,  
HOLIDAY UNIVERSAL, INC., and  
PAUL TOBACK,  
By their attorneys,

Plaintiffs,  
FIT TECH, INC., et al.  
By their attorneys,

/s/ Matthew J. Fogelman  
Howard M. Cooper (BBO #543842)  
hcooper@toddweld.com  
Juliet A. Davison (BBO #562289)  
jdavison@toddweld.com  
Heidi A. Nadel (BBO #641647)  
hnadel@toddweld.com  
Matthew J. Fogelman (BBO #653916)  
mfogelman@toddweld.com  
Todd & Weld LLP  
28 State Street, 31<sup>st</sup> Floor  
Boston, MA 02109  
(617) 720-2626

/s/ Stephen W. Rider  
Stephen W. Rider  
stephen.rider@swrpc.com  
Stephen W. Rider P.C.  
350 Lincoln Place Ste 2400  
Hingham, MA 02043  
(781) 740-1289

Dated: October 12, 2006

So Ordered: \_\_\_\_\_  
Lasker, J.  
United States District Court

**CERTIFICATE OF SERVICE**

I, Matthew J. Fogelman, hereby certify that this document has been filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

Date: October 12, 2006

/s/ Matthew J. Fogelman